

Special Conditions for Land Access Special Use Permit Holder

This SUP is intended to be a trial period setting the stage for future management of public access by a single vendor, so some of these conditions are intended to be open to modification to improve this agreement for all parties as we experience lessons-learned.

- 1) SUP holder is authorized to provide limited public access to the Three Sisters Springs Boardwalk only at a cost equal to or less than \$_____ per visitor via a 40 passenger or smaller bus/shuttle 7 days/week from 10:00 a.m. to 4:00 p.m. with a maximum of 10 trips per day from November 15, 2014 through March 31, 2015, except for Refuge Open House Event dates. The duration of contact may be extended upon mutual agreement of USFWS and SUP holder. Neither the SUP holder, the City of Crystal River nor the FWS shall adjust the cost to provide public access without consent from all parties.
- 2) The City of Crystal River will retain 10% of gross receipts. The SUP holder shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this SUP. The SUP holder shall operate under the accrual basis of accounting, wherein revenue and expenses are recorded in the period earned or incurred in conformance with Generally Accepted Accounting Principles (GAAP). In computing net profits for any purposes of this SUP, the SUP holder shall keep its account in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized hereunder by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the SUP holder or by any other device. The selected SUP holder will be required to supply the City of Crystal River and the FWS a report of services (number of interpretive tours or events and number of participants; number of trips and passengers) and receipts for each month by the 5th day of the following month.
- 3) No water access from land into Three Sister Springs. Visitor access is limited to the boardwalk.
- 4) Refuge Open House Event (free public access) dates are October 25, 2014; December 6, 2014; and January 17 and 18, and February 21, 2015. During these dates, the Refuge boardwalk will be open free of charge to the public; SUP holder will not be active on these date and or have any responsibly during these events.
- 5) SUP holder must provide adequate off-site ADA compliant parking and restroom facilities; ADA compliant buses/shuttles and licensed drivers. Vendor must keep all facilities clean, neat and organized during hours of operation.

- 6) The Refuge will provide two portable restrooms; one will be ADA accessible at the Three Sisters Refuge. The SUP holder will be responsible for their cleanliness and maintenance.
- 7) The SUP holder will be required to verify the following insurance coverage:
 - (a) Workmen's Compensation: The SUP holder shall comply with the provisions of the Workmen's Compensation Act of the State of FL during the term of the SUP , including extensions or renewals thereof.
 - (b) Liability Insurance: The SUP or shall procure and maintain during the term of this SUP and any extension thereof liability insurance furnished by an insurance company that is acceptable by the FWS. The named insured parties under the policy shall be the SUP or, the Department of the Interior U.S. Fish and Wildlife Service, Southwest Florida Water Management District and City of Crystal River. The amounts of the insurance shall be not less than as follows:
 - \$\$\$300,000 each person*
 - \$\$\$300,000 each occurrence*
 - \$500,000 property damage*The insurance policy or policies must specify that the insurer has no recourse against the Department of the Interior and the Service, Southwest Florida Water Management District, and City of Crystal River for claim expenses, payments of any premiums, or deductibles due. All listed parties will not be responsible for any omissions or inadequacies of insurance coverage and amounts if the insurance purchased by the SUP holder is inadequate or otherwise insufficient.
- 8) SUP holder is responsible for compliance of all City, County, State, and Federal requirements as it relates to this public access operation including city business license and taxes.
- 9) SUP holder is responsible for ensuring safety duties of shuttles/buses; on-site and off-site restroom facilities; and minor duties on the boardwalk, including removal of litter and remediation of tripping hazards.
- 10) SUP holder is responsible for reporting any major safety hazards or issues to Refuge Manager immediately.
- 11) No smoking is allowed on shuttles/buses and in Three Sisters Refuge.
- 12) All areas on the property, except for the toilets, loading area, and boardwalk are strictly off-limits. Restroom access will be marked and readily understood.

- 13) Children under the age of 16 must be under adult supervision at all times.
- 14) Any visitors in violation of Refuge regulations will be immediately reported to USFWS law enforcement personnel. The SUP holder is not expected to enforce Refuge regulations outside of these SUP conditions (no smoking, no access to water from land, etc..).
- 15) Any accidents or injuries will be immediately reported to USFWS law enforcement personnel or Refuge management.
- 16) SUP holder must indemnify, save, and hold harmless the Department of the Interior, the Service, Southwest Florida Water Management District, City of Crystal River and its agents and employees from any and all liabilities, obligations, losses, damages, judgments, claims, actions, suits, penalties, fines, costs, and expenses (including reasonable attorneys' fees and experts' fees) of any kind and nature arising out of acts or omissions of its employees, agents, and contractors (including any contractors' subcontractors). This includes injury to people (including injury resulting in death) and damage to property in connection with activities under this agreement.
- 17) SUP holder must promptly pay the Service the full value of all damages to the lands or other property of the Service caused by SUP holder, its employees, agents, representatives, or contractors (including any contractors' subcontractors) or, as agreed to by the parties, must work to repair or replace the damaged lands or property.
- 18) SUP holder will cooperate with the Service in the investigation of any claim that may be filed with the Service because of the activities of the SUP holder, its employees, agents, representatives, or contractors (including any contractors' subcontractors).
- 19) SUP holder will assist in providing interpretation and environmental education to visitors that pick-up site, in route, and/or during tour of boardwalk in coordination with USFWS to ensure consistent messaging. SUP holder will allow for one day of training for each employee with USFWS on policies, procedures, interpretation and environmental education.
- 20) Messaging and information provided to the public is subject to review and approval by the USFWS. The SUP holder may advertise land access to Three Sisters Spring but any advertisements will be subject to review by the USFWS. The SUP holder must also provide a list of companies currently offering in-water rentals and/or tours to visitors either at pick-up points or on shuttles.

- 21) Attire for visitors must include the casual attire (shirt, shorts, skirts, etc.) and shoes.
- 22) SUP holder provides a uniform identifying their representatives.
- 23) SUP holder will meet weekly, or as needed, with USFWS representatives and provide Refuge specific monthly visitation information including but not limited to number of visitors; revenues; costs; and other related administration information.
- 24) If SUP holder has requests for special event trips outside of or with the daily operations it will require coordination and approval by USFWS.
- 25) The US Fish and Wildlife Service will continue to provide daily access to volunteers on duty and special education groups scheduled by the Service (e.g. Boy/Girl Scouts, school programs, etc.).
- 26) Suspension and Termination

Suspension

The Refuge Manager may temporarily suspend operations under this SUP in whole or in part when necessary for administrative purposes or to enhance or protect Refuge resources, visitor enjoyment or safety. No compensation of any nature shall be due the SUP holder in the event of a suspension of operations, including, without limitation, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension. Suspension will be for the period of time deemed necessary by the Refuge Manager and will be for the shortest duration practicable under the circumstances. Events which may give rise to consideration of a suspension include, without limitation, acts of God, legislative acts, executive acts, acts of the agency, or required construction or maintenance at the Refuge.

Termination

1. Assurance. Any government action regarding termination of this SUP will be made at the discretion of the Refuge Manager and will not be exercised in an arbitrary or capricious manner. All final termination actions will require careful consideration of the relevant facts and circumstances and will be based upon a written determination that shall be furnished to the SUP holder.
2. Necessity. When, in the discretion of the Refuge Manager, the Service deems it to be in the best interest of the Government to terminate the SUP, the Refuge Manager may

do so in whole or in part at any time when it is deemed necessary including, without limitation, for the purpose of enhancing or protecting Refuge resources or visitor enjoyment or safety.

3. Default. The Refuge Manager may terminate this SUP in whole or part for default if the Refuge Manager determines that the SUP holder has breached any requirement of this SUP, including, but not limited to, the requirement to maintain and operate Visitor Services to the satisfaction of the Refuge Manager, the requirement to provide only the Visitor Services required or authorized by the Refuge Manager, the requirement to pay the established percentage payment and other fees payable hereunder, and the requirement to comply with Applicable Laws.

4. Cure. In the event of a breach of the SUP, the Refuge Manager will provide the SUP holder an opportunity to cure by providing written notice to the SUP holder of the breach. In the event of a monetary breach, the Refuge Manager will give the SUP holder a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Refuge Manager may terminate the SUP for default. In the event of a nonmonetary breach, if the Refuge Manager considers that the nature of the breach so permits, the Refuge Manager will give the SUP holder thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Refuge Manager in his sole discretion, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Refuge Manager may terminate the SUP for default. Notwithstanding this provision, repeated breaches of the same nature, or a substantial, material breach, such as SUP holder's unilateral cessation of the concession operation without fault of the Service, Refuge or the United States, shall be grounds for termination for default without a cure period. In the event of a breach of any nature, the Refuge Manager may suspend the SUP holder's operations as appropriate.

5. Bankruptcy Petition. The Refuge Manager may terminate this SUP upon the filing or the execution of a petition in bankruptcy by or against the SUP holder, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the SUP holder for the benefit of creditors, a petition or other proceeding against the SUP holder for the appointment of a trustee, receiver, or liquidator, or the taking by any person or entity of the rights granted by this SUP or any part thereof upon execution, attachment or other process of law or equity. The Refuge Manager may terminate this SUP if the Refuge Manager determines that the SUP holder is unable to perform the terms of SUP due to bankruptcy or insolvency.

6. Notice of Termination. Termination of this SUP for any reason shall be by written notice to the SUP holder. The notice will set forth the effective date of the termination and the reasons for such termination.

7. Notice of Bankruptcy or Insolvency of the SUP holder

The SUP holder must give the Refuge Manager notice not less than fifteen (15) days prior to filing any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The SUP holder must also give the Refuge Manager immediate notice of any petition or other proceeding against the SUP holder for the appointment of a trustee, receiver, or liquidator, or the taking by any person or entity of the rights granted by this SUP or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, this SUP is not a lease, but is an executory SUP exempt from inclusion in assets of SUP holder pursuant to 11 U.S.C. §1135.

Requirements in the Event of Termination

1. In the event of termination of this SUP by the Refuge Manager for any reason, no compensation of any nature including, without limitation, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination, shall be due the SUP holder for such termination.

2. Upon termination of this SUP for any reason, and except as otherwise provided in this section, the SUP holder shall, at SUP holder's expense, promptly vacate the Concession Area, remove all of SUP holder's personal property, repair any injury occasioned by installation of removal of such property, and ensure that the assigned Concession Facilities and Government Assigned Personal Property are in as good condition as they were on the Commencement Date of this SUP, reasonable wear and tear excepted.

3. To avoid interruption of Visitor Services to the public upon the termination of this SUP for any reason, the SUP holder, upon the request of the Refuge Manager, shall continue to conduct all operations hereunder under the terms and conditions of this SUP for a reasonable period of time as determined by the Refuge Manager, not to exceed six (6) weeks, which may be extended by mutual agreement of the parties, except that in no event shall such continuation of operations, including any extensions, extend beyond the prescribed SUP termination date set forth herein.

4. To avoid interruption of services to the public upon expiration of this SUP or upon its termination for any reason, the SUP holder, upon the request of the Refuge Manager, may consent to the use by another operator of the SUP holder's personal property used in concession operations, excluding inventories if any, not including current or intangible assets, for a period of time not to exceed six weeks from the date of such termination or expiration. The other operator shall pay the SUP holder an annual fee for use of such property, prorated for the actual period of use, in the amount of the annual depreciation of such property, plus a return on the book value of such property equal to the prime lending rate, effective on the date the operator assumes managerial and operational responsibilities, as published by the Federal Reserve System Board of Governors. In such circumstances, the method of depreciation applied shall be either straight line depreciation or depreciation as shown on the SUP holder's Federal income tax return, whichever is less. To avoid interruption of services to the public upon expiration of this SUP or termination of this SUP for any reason, the SUP holder may, upon the request of the Refuge Manager, sell its existing inventory to another operator at the purchase price as shown on applicable invoices.

27) Compensation

A. Compensation for Personal Property

Except as otherwise provided in this SUP, upon expiration or termination of this SUP for any reason, the SUP holder shall remove its personal property from the Refuge unless it is sold to a successor SUP holder. A successor SUP holder may purchase such personal property from the SUP holder subject to mutually agreed upon terms. Personal property of the SUP holder not removed from the Refuge as of the date of expiration or termination of this SUP, unless the Refuge Manager in writing extends such date of removal, shall be considered abandoned property subject to disposition by the Service under the instructions of the Refuge Manager. Such disposition will be made at the full cost and expense of the SUP holder, in accordance with Applicable Laws. Any cost or expense incurred by the Service as a result of such disposition may be offset from any amounts that may be owed to SUP holder by the Service.

28) Assignment, Sale or Encumbrance of Interests

There shall be no assignment, sale or encumbrance of the SUP holder's interest in this SUP unless deemed necessary and appropriate in the discretion of the Refuge Manager

for the continuation of Visitor Services to the public. In the event the Refuge Manager makes such a determination, the Refuge Manager may analyze the proposed transaction using the procedures set forth in 36 C.F.R. Part 51, or such other similar provisions or methods deemed reasonable by the Refuge Manager. Failure by the SUP holder to comply with any such regulations or provisions with respect to any unauthorized assignment, sale or encumbrance of SUP holder's interest in this SUP is a material breach of the SUP for which the Refuge Manager may terminate this SUP for default. The Service shall not be obliged to recognize any right of any person or entity to an interest in this SUP of any nature, if obtained in violation of such regulations or provisions.

29) End of Term

A. At the expiration of this SUP or any extension thereof, the SUP holder shall vacate and surrender the Concession Area, Concession Facilities, and Government Assigned Personal Property to the Service. When all charges and damage claims due the Service have been paid, the SUP holder will then be permitted within a reasonable period, not to exceed thirty (30) calendar days from the expiration date or last day of any extension period, to enter upon and remove all of the SUP holder's inventory, equipment and personal property. Failure to remove such property during the thirty (30) day period (or during any extension of such period which the Refuge Manager may grant), shall amount to a forfeiture of said property to the Service. Should the SUP holder elect to sell, the Service shall have the right of first refusal to purchase the SUP holder's property.